

1
2
3
4
5
6
7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**

9
10 LARGO CARGO CO., a Florida
11 corporation, individually and on
12 behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15 GOOGLE, INC., a Delaware
16 Corporation; and DOES 1 through 10,
17 inclusive,

18 Defendants.

CASE NO. CV 10-00241 RMW (PVT)
HON. RONALD M. WHYTE

19 **ORDER AND FINAL
JUDGMENT**

Hearing
Date: March 11, 2011
Time: 9:00 a.m.
Courtroom: Courtroom 6, 4th Floor

20 **ORDER AND FINAL JUDGMENT**

21 On the 11th day of March, 2011, a hearing pursuant to Fed. R. Civ. P. 23(e)
22 was held before this Court for the following purposes:

23 a. to finally determine whether the Settlement Class satisfies the
24 applicable prerequisites for certification for settlement purposes under Fed. R. Civ.
25 P. 23(a) and (b);

26 b. to determine whether the proposed Settlement as reflected in
27 the Stipulation And Agreement Of Settlement dated October 1, 2010 (the
28 “Stipulation”) is fair, reasonable, and adequate, and should be finally approved by
the Court;

c. to determine whether the proposed Order and Final Judgment as provided under the Stipulation should be entered, and to determine whether the release by the Class, as set forth in the Stipulation, should be provided;

d. to consider Class Counsel's application for an award of attorneys' fees and reimbursement of expenses; and

- e. to rule upon such other matters as the Court may deem appropriate.

NOW, THEREFORE, IT IS HEREBY ORDERED, this 23rd day of March, 2011, that:

10 1. The Court finds that the prerequisites under Fed. R. Civ. P. 23(a) and
11 (b)(3) have been satisfied in that: (a) the number of Settlement Class Members is
12 so numerous that joinder of all members thereof is impracticable; (b) there are
13 questions of law and fact common to the Settlement Class; (c) the claims of the
14 Plaintiff are typical of the claims of the Settlement Class Members that it
15 represents; (d) the Plaintiff has represented, and will fairly and adequately
16 represent, the interests of the Settlement Class; (e) questions of law and fact
17 common to the Settlement Class Members predominate over any questions
18 affecting only individual members of the Settlement Class; and (f) a class action is
19 superior to other available methods for the fair and efficient adjudication of the
20 controversy.

21 2. Accordingly, Pursuant to Fed. R. Civ. P. 23, the Court hereby finally
22 certifies this action as a class action the following Settlement Class:

23 All persons or entities located within the United States
24 who created an AdWords campaign between October
25 2007 and July 2009, left the “CPC Content bid” field
26 blank, and were charged for clicks on ads on the Content
27 Network.

28 3. Furthermore, pursuant to Fed. R. Civ. P. 23, the Court hereby finally

1 certifies Plaintiff Largo Cargo Co. ("Plaintiff") as Class Representative for the
2 Settlement Class and Kabateck Brown Kellner, LLP as Counsel for the Class
3 ("Class Counsel").

4 4. Notice of the pendency of this Action as a class action and of the
5 proposed Settlement was given to all Class Members who could be identified with
6 reasonable effort. The form and method of notifying the Class of the pendency of
7 the action as a class action and of the terms and conditions of the proposed
8 Settlement met the requirements of Fed. R. Civ. P. 23, due process, and any other
9 applicable law, constituted the best notice practicable under the circumstances, and
10 constituted due and sufficient notice to all persons and entities entitled thereto.

11 5. The Settlement is approved as fair, reasonable, and adequate, and the
12 members of the Settlement Class Members are directed to consummate the
13 Settlement in accordance with the terms and provisions of the Stipulation.

14 6. The obligations incurred pursuant to the Stipulation are in full and
15 final disposition of the Action and any and all Settled Claims as against all
16 Released Parties.

17 7. The Complaint is hereby dismissed with prejudice as against
18 Defendant.

19 8. Plaintiff and all Class Members on behalf of themselves, their heirs,
20 executors, administrators, successors and assigns, hereby, with respect to each and
21 every Settled Claim, release and forever discharge, and shall forever be enjoined
22 from prosecuting, any Settled Claims against any of the Released Parties, whether
23 or not such Plaintiff and Class Members execute and deliver a Proof of Claim.

24 9. The Court finds that all parties and their counsel have complied with
25 each requirement of the Federal Rules of Civil Procedure as to all proceedings
26 herein.

1 10. The Court further finds that the response of the Class to the
2 settlement supports final settlement approval. Not a single Class Member filed an
3 objection to the Settlement and seven Class Members requested exclusion from
4 the Settlement.

5 11. Class Counsel are hereby awarded one-third of the Gross Settlement
6 Fund – after deducting \$100,000 for administrative costs – in attorneys’ fees, or
7 \$1,128,333.33, which sum the Court finds to be fair and reasonable, which shall be
8 paid to Plaintiff’s Counsel from the Gross Settlement Fund with interest from the
9 date such Gross Settlement Fund was funded to the date of payment at the
10 same net rate that the Gross Settlement Fund earns. The attorneys’ fees amount
11 awarded to Class Counsel reflects a deduction of \$5,000 to be paid as an incentive
12 award to Plaintiff, pursuant to paragraph 12. Class Counsel are also awarded
13 \$5,153.20 in reimbursement of expenses, which shall also be paid to Plaintiff’s
14 Counsel from the Gross Settlement Fund with interest from the date such Gross
15 Settlement Fund was funded to the date of payment at the same net rate that the
16 Gross Settlement Fund earns.

17 12. Plaintiff is hereby awarded \$ 8,000 as an incentive award directly
18 related to Plaintiff’s representation of the Settlement Class. \$3,000 of this award
19 shall be paid to Plaintiff from the Gross Settlement Fund with interest from the
20 date such Gross Settlement Fund was funded to the date of payment at the same net
21 rate that the Gross Settlement Fund earns. The remaining \$5,000 of this award
22 shall be paid to Plaintiff from Plaintiff’s Counsel’s attorneys’ fees
23 upon Class Counsel’s receipt of attorneys’ fees from the Gross Settlement
24 Fund.

25 13. This Court retains jurisdiction over the parties and the Settlement
26 Class Members for all matters relating to this Action, including the administration,
27 interpretation, effectuation or enforcement of the Stipulation and this Order and
28 Final Judgment.

1
2 **IT IS SO ORDERED.**
3
4

5 Dated: 3/23/2011
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By: Ronald M. Whyte
The Honorable Ronald M. Whyte
United States District Court Judge